

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 4705 of 2013

District : Jalgaon

Shri Ravindra Keshav Mahajan,
Age : 52 years,
Occupation : Business,
R/o. Plot No. G-35, MIDC, Jalgaon,
Taluka & District : Jalgaon,
The Power of Attorney Holder of
Nandkishor Satyanarayan Kabra,
Age : 54 years,
Occupation : Business,
R/o. House No. 106, Mohan Nagar,
Jalgaon, Taluka & District : Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra
(Through its Secretary,
Industries Department,
Mantralaya, Mumbai - 32).
2. The District Collector, Jalgaon,
At Jalgaon,
Taluka & District : Jalgaon.
3. Maharashtra Industrial Development
Corporation, Through its
Chief Executive Officer,
Mumbai.
4. The Maharashtra Industrial Development
Corporation, Through its Regional
Officer, MIDC Nashik Region,
Satpur, Nashik - 422 007.
5. The Maharashtra Industrial Development
Corporation, Through its Regional
Officer, MIDC, Dhule Region, Dhule.

6. The Maharashtra Industrial Development Corporation, Through its Area Manager, MIDC CFC Building, Ajantha Road, Jalgaon, at Jalgaon.
7. Nishant Suresh Talreja,
Age : Major,
Occupation : Business,
R/o. Official Address W-65,
MIDC, Jalgaon,
Taluka & District : Jalgaon. .. Respondents.

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Mr. A.G. Talhar, Advocate, for the petitioner.

Mr. A.P. Basarkar, Asst. Government Pleader, for respondent nos.1 and 2.

Mr. S.S. Deve, Advocate, for respondent nos.3 to 6.

Mr. S.H. Tripathi, Advocate, for respondent no.7.

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 3RD MARCH 2016

COURT'S ORDER (Per S.V. Gangapurwala, J.) :

1. Heard the learned Counsel for respective parties.
2. The petitioner was allotted plot bearing No. G-109 for the purpose of setting up a small scale industrial unit i.e. plastic industry. The said plot was allotted on 24-4-1991. According to the MIDC, the

petitioner did not develop the said plot. As such, possession of the said plot was taken in July 2011 and the allotment of the same is cancelled. The petitioner assails the said action of the MIDC in unilaterally taking over possession and cancelling the allotment.

3. Mr. Talhar, the learned Counsel for the petitioner, states that the petitioner was allotted the plot in the year 1991. Extension of time was granted to the petitioner to complete the construction from time to time. The petitioner has applied for the commencement certificate along with the plan. The petitioner completed 30 % of the construction. However, further construction could not be made because of the stagnation of water. The respondent - Corporation was intimated about the same time and again. Because of the stagnation of water, nobody was ready to work on the said site. The respondent agreed to take corrective measures. The same was not done at the behest of the respondent - Corporation. The Corporation cannot take advantage of their own wrong. The petitioner has filed copy of representation in this regard. However, no action has been taken for removal of the said deficiencies i.e. the stagnation of water. According to the learned Counsel, the act of respondent is *per se* illegal. Subsequently, the Corporation states that the said plot is allotted to respondent no.7, that too without observing the seniority. The petitioner is still in possession of the said plot. The petitioner does not have custody of the documents, such as, commencement certificate and the plan submitted.

4. Mr. Deve, the learned Counsel for respondent nos.3 to 6 - Corporation, states that the petitioner was granted extension up to 2001 on his request. At that time, no grievance was made about stagnation of water. However, the petitioner even did not commence construction.

Pursuant to the possession Panchanama, possession of the plot has been taken. At that time also, the plot was completely vacant. According to the learned Counsel, the petitioner did not develop the said plot for the purpose for which it was allotted. The purpose of allotment is frustrated. Subsequently, as per Rules, the plot is allotted to respondent no.7 who has further carried out the construction.

5. According to the learned Counsel for respondent no.7, respondent no.7 was allotted the said plot in the year 2013 itself and till the date of filing of affidavit in reply, total construction is completed and completion certificate is also given by the Corporation.

6. We have considered the submissions canvassed by the respective parties. The petitioner was allotted Plot No. G-109 in MIDC area with a laudable object of setting up a small scale industry. The same was allotted in the year 1991. As per the agreement, the petitioner was supposed to make necessary construction within five years. From the record, it appears that the time was extended for obtaining completion certificate up to 2001. However, the petitioner failed to make any construction till the allotment was cancelled and the said plot was taken in possession by the Corporation in the year 2011. There is not a single document on record to even remotely suggest that the petitioner had applied for commencement certificate along with plan. When application is not filed for commencement certificate, there is no question of commencement certificate being granted to the petitioner. For the first time in the year 2009, the petitioner had made a complaint about stagnation of water i.e. almost 18 years after allotment of the plot. There is nothing on record to show that because of the same, there was an

impediment for the petitioner to carry out the construction. The action of the respondent - Corporation cannot be faulted with. It has further been observed by the Corporation, that at the time of taking possession of the plot, the plot was completely vacant. The said action of the Corporation cannot be faulted with. Subsequently, the said plot is allotted to respondent no.7 who has carried out the construction and has completed the said construction. The same is allotted for plastic industry. Completion certificate is also given to respondent no.7 by the Corporation.

7. In the light of the above, no interference is called for. The Writ Petition is accordingly dismissed. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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